

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:19-cv-249-FL**

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MATTHEW BRADLEY,	)	<b>DEFENDANT ANALYTICAL GRAMMAR, INC.'S APPENDIX</b>
Plaintiff,	)	<b>TO LOCAL CIVIL RULE 56.1</b>
v.	)	<b>STATEMENT OF</b>
ANALYTICAL GRAMMAR, INC.,	)	<b>UNDISPUTED MATERIAL FACTS IN</b>
Defendant.	)	<b>SUPPORT OF ITS MOTION FOR</b>
	)	<b>SUMMARY JUDGMENT</b>

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Exhibit 1: Declaration of Dan Booth dated July 15, 2020

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:19-cv-249-FL**

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MATTHEW BRADLEY,	)	DECLARATION OF DAN BOOTH IN SUPPORT OF DEFENDANT ANALYTICAL GRAMMAR, INC.'S MOTION FOR SUMMARY JUDGMENT
Plaintiff,	)	
v.	)	
ANALYTICAL GRAMMAR, INC.,	)	
Defendant.	)	
	)	

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I, Dan Booth, declare as follows.

1. I am an attorney licensed to practice in the commonwealth of Massachusetts and I have entered a notice of special appearance in the above-referenced action. ([DE 14](#).) I am the founder and principal of the law firm Dan Booth Law LLC and counsel of record for defendant Analytical Grammar, Inc. (“Analytical”). I submit this declaration in support of Analytical’s Motion for Summary Judgment and to place before the Court evidence relied upon by Analytical in its accompanying summary judgment motion.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the deposition transcript from the Deposition of Plaintiff Matthew Bradley (“Bradley”) dated December 12, 2019.

3. Attached hereto as **Exhibit 2** is a true and correct copy of Bradley’s Responses to Defendant’s First Request for Production of Documents, served on December 2, 2019.

4. Attached hereto as **Exhibit 3** is a true and correct copy of Bradley’s Superseding Answers to Defendant’s First Set of Interrogatories, served on December 6, 2019.

5. Attached hereto as **Exhibit 4** is a true and correct copy of a document produced by Bradley in this action bearing the Bates Numbers MB089-091.

6. Attached hereto as **Exhibit 5** is a true and correct copy of a document produced by Bradley in this action bearing the Bates Number MB\_010.

7. Attached hereto as **Exhibit 6** is a true and correct copy of Bradley's Complaint and its exhibits filed in this action on June 18, 2019 ([DE 1, 1-1, 1-2](#)).

8. Attached hereto as **Exhibit 7** is a true and correct copy of Analytical's Answer to Complaint and Counterclaims filed in this action on September 13, 2019 ([DE 12](#)).

9. Attached hereto as **Exhibit 8** is a true and correct copy of Bradley's Answer to Counterclaim filed in this action on October 4, 2019 ([DE 15](#)).

10. Attached hereto as **Exhibit 9** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Numbers AG0096-0100.

11. Attached hereto as **Exhibit 10** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Numbers AG0101-0106.

12. Attached hereto as **Exhibit 11** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Number AG0107.

13. On April 27, 2020, Analytical served on Bradley an Expert Report of Aram Sinnreich, with four exhibits. True and correct copies of the expert report and its exhibits are attached to the Declaration of Aram Sinnreich in support of the Motion for Summary Judgment.

14. Attached hereto as **Exhibit 12** is a true and correct copy of a document produced by Bradley in this action bearing the Bates Numbers MB\_012-065.

15. Attached hereto as **Exhibit 13** is a true and correct copy of a document produced by Bradley in this action bearing the Bates Numbers MB\_066-067.

16. Attached hereto as **Exhibit 14** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Number AG0010.

17. Attached hereto as **Exhibit 15** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Numbers AG0011-0013.
18. Attached hereto as **Exhibit 16** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Numbers AG0194-0197.
19. Attached hereto as **Exhibit 17** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Numbers AG0237-0243.
20. Attached hereto as **Exhibit 18** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Number AG0253.
21. Attached hereto as **Exhibit 19** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Number AG0254.
22. Attached hereto as **Exhibit 20** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Numbers AG0255-0256.
23. Attached hereto as **Exhibit 21** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Numbers AG0222-0228.
24. Attached hereto as **Exhibit 22** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Numbers AG0229-0235.
25. Attached hereto as **Exhibit 23** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Number AG0025.
26. Attached hereto as **Exhibit 24** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Numbers AG0088-0095.
27. Attached hereto as **Exhibit 25** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Numbers AG0044-0048.
28. Attached hereto as **Exhibit 26** is a true and correct copy of a document produced

by Analytical in this action bearing the Bates Number AG0236.

29. Attached hereto as **Exhibit 27** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Numbers AG0078-0087.

30. Attached hereto as **Exhibit 28** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Numbers AG0062-0077.

31. Attached hereto as **Exhibit 29** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Numbers AG0032-0043.

32. Attached hereto as **Exhibit 30** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Numbers AG0202-0206.

33. Attached hereto as **Exhibit 31** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Numbers AG0217-0221.

34. Attached hereto as **Exhibit 32** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Number AG0021.

35. Attached hereto as **Exhibit 33** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Number AG0022.

36. Attached hereto as **Exhibit 34** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Number AG0001.

37. Attached hereto as **Exhibit 35** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Numbers AG0002-0003.

38. Attached hereto as **Exhibit 36** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Number AG0200.

39. Attached hereto as **Exhibit 37** is a true and correct copy of Analytical's Amended Responses to Plaintiff's First Set of Interrogatories, served on February 21, 2020.

40. Attached hereto as **Exhibit 38** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Number AG0134.

41. Attached hereto as **Exhibit 39** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Numbers AG0168-0169.

42. Attached hereto as **Exhibit 40** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Number AG0201.

43. Attached hereto as **Exhibit 41** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Numbers AG0244-0252.

44. Attached hereto as **Exhibit 42** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Numbers AG0209-0216.

45. Attached hereto as **Exhibit 43** is a true and correct copy of a document produced by Bradley in this action bearing the Bates Number MB\_088.

46. Attached hereto as **Exhibit 44** is a true and correct copy of a document produced by Bradley in this action bearing the Bates Number MB\_075.

47. Attached hereto as **Exhibit 45** is a true and correct copy of a document produced by Bradley in this action bearing the Bates Number MB\_076.

48. Attached hereto as **Exhibit 46** is a true and correct copy of a document produced by Bradley in this action with the filename “Copyright Violations\_MB\_92.docx” bearing no Bates Number stamp.

49. Attached hereto as **Exhibit 47** is a true and correct copy of a document produced by Bradley in this action bearing the Bates Numbers MB\_003-005.

50. Attached hereto as **Exhibit 48** is a true and correct copy of a document produced by Bradley in this action bearing the Bates Numbers MB\_001-002.

51. Attached hereto as **Exhibit 49** is a true and correct copy of a document produced by Bradley in this action bearing the Bates Number MB\_087.

52. In a supplemental response to Analytical's Document Request No. 20, on January 23, 2020, Bradley produced a hyperlink to a Custom Ink account page, <https://www.customink.com/profiles/designs?e=bWJyYWRsZXIAYnJhZC10ZWNoLmNvbQ%3D%3D>. Attached hereto as **Exhibit 50** is a true and correct copy of a screenshot of that page.

53. Attached hereto as **Exhibit 51** is a true and correct copy of a screenshot of the Merriam-Webster dictionary page for the word "viral," <https://www.merriam-webster.com/dictionary/viral>.

54. Attached hereto as **Exhibit 52** is a true and correct copy of a screenshot of the Merriam-Webster dictionary page for the word "meme," <https://www.merriam-webster.com/dictionary/meme>, which Analytical provided to Bradley as Exhibit No. 4 at his December 12, 2019 deposition in this action.

55. Attached hereto as **Exhibit 53** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Numbers AG0108-0109.

56. Attached hereto as **Exhibit 54** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Numbers AG0110-0114.

57. Attached hereto as **Exhibit 55** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Numbers AG0023-0024.

58. Attached hereto as **Exhibit 56** is a true and correct copy of Bradley's Rule 26(a)(1) Initial Disclosures, served on October 24, 2019.

59. Bradley did not include a computation or estimate of damages sustained or recoverable profits in his Initial Disclosures. He did not supplement his Initial Disclosures to

provide a computation of any damages claimed or of any recoverable profits.

60. Attached hereto as **Exhibit 57** is a true and correct copy of a document produced by Bradley in this action bearing the Bates Numbers MB\_070-072.

61. Attached hereto as **Exhibit 58** is a true and correct copy of a document produced by Analytical in this action bearing the Bates Numbers AG0004-0005.

62. Attached hereto as **Exhibit 59** is a true and correct copy of an email chain reflecting emails I exchanged with Bradley's attorney Seth Hudson on August 20 and 21, 2019. In my August 20, 2019 email, among other things, I reiterated Analytical's offer to accept entry of judgment, proposed to discuss a possible settlement, stated that Analytical had "believed in good faith that its use of the viral meme was permissible and would not constitute an infringement[,"] and asked whether "Mr. Bradley requests the removal of his photo from Analytical Grammar's Facebook page."

63. Neither Bradley nor his counsel ever responded to Analytical's offers to accept judgment or to its offers to remove the Photograph from its Facebook page.

64. Attached hereto as **Exhibit 60** is a true and correct copy of an email I received from Bradley's attorney Richard Liebowitz on September 17, 2019.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 15th day of July in Concord, Massachusetts.

/s/ Dan Booth  
Dan Booth